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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/648,881

08/27/2003

Robert L. Koelzer

01925-P0216A

4884

24126 7590 02/28/2007  
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EXAMINER

GILLAN, RYAN P

ART UNIT

PAPER NUMBER

3746

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/28/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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## Office Action Summary

Application No.

10/648,881

Applicant(s)

KOELZER ET AL.

Examiner

Ryan P. Gillan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2 and 4-13 rejected under 35 U.S.C. 102(b) as being anticipated by Kawai 4,911,614. Kawai teaches a valve assembly, comprising: a housing (1); a pump mechanism (5) disposed in said housing; a first plate (13) mounted adjacent to said pump mechanism, said first plate having at least one aperture (clearly seen in figure 5) and at least one flexing flap (13F); a second plate (14) mounted adjacent to said first plate, said second plate having at least one aperture (clearly seen in figure 5) and at least one flexing flap (14F); wherein said first and second plates are aligned such that the at least one aperture in said first plate is located adjacent the at least one flexing flap in said second plate and the at least one aperture in said second plate is located adjacent the at least one flexing flap in said first plate (clearly seen in figure 1 and 5); wherein said second plate includes a plurality of the at least one flexing flaps, and wherein each of the plurality of the at least one flexing flaps open into the discharge channel (18R & 18F); a compressor head (15R & 15F) mounted adjacent to said second plate, said compressor head having a discharge channel into which the at least one flap of said second plate opens (clearly seen in figure 1); and at least one outlet port (col. 2 lines 14-51) in compressor head for discharging fluid that has passed

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through said plates; at least one inlet port (col. 2 lines 14-51) in said compressor head for introducing fluid to be passed through said plates; wherein: said at least one aperture in said first plate comprises a plurality of apertures located along the inner periphery of said first plate (clearly seen in figure 5); and the at least one aperture in said second plate comprises a plurality of apertures located along the outer periphery of said second plate (clearly seen in figure 5); wherein said at least one aperture in said first plate comprises a plurality of apertures located along the outer periphery of said first plate (clearly seen in figure 5); and the at least one aperture in said second plate comprises a plurality of apertures located along the inner periphery of said second plate (clearly seen in figure 5); wherein said pump mechanism comprises a compressor (Abstract); wherein said housing comprises a first portion (1R) and a second portion (1F); the first portion comprises a cylinder block (1R) having at least one piston channel (3); the second portion comprises a swash plate housing (1F); and said pump mechanism comprises a swash plate (6) disposed in said swash plate housing and at least one piston (5) coupled to said swash plate and slidably disposed in the at least one piston channel; further comprising a drive shaft (2) disposed in said cylinder block and said swash plate housing, wherein said swash plate is mounted on said shaft (clearly seen in figure 1); a first fluid pathway defined when the at least one flexing flap of said second plate is disposed against the at least one aperture of said first plate and the at least one flexing flap of said first plate is biased away from the at least one aperture of said second plate, in which fluid flows through said inlet port, through the at least one aperture in said second plate, past the at least one flexing flap in the first

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plate, and into said housing (clearly seen in figure 1, col. 4 lines 16-51); and a second fluid pathway defined when the at least one flexing flap of said first plate is disposed against the at least one aperture of said second plate and the at least one flexing flap of said second plate is biased away from the at least one aperture of said first plate, in which fluid flows from said housing, through the at least one aperture in said first plate, past the at least one flexing flap in the second plate, and out said outlet port (clearly seen in figure 1, col. 4 lines 16-51); in which fluid flows through said inlet port and into said swash plate chamber, through the passageway, into said cover, through the at least one aperture in said second plate, past the at least one flexing flap in the first plate, and into the piston channel (clearly seen in figure 1, col. 4 lines 16-51); and a second fluid pathway defined when the at least one flexing flap of said first plate is disposed against the at least one aperture of said second plate and the at least one flexing flap of said second plate is biased away from the at least one aperture of said first plate, in which fluid flows from the piston channel, through the at least one aperture in said first plate, past the at least one flexing flap in the second plate, and out said outlet port (clearly seen in figure 1, col. 4 lines 16-51); a cover (15R and 15F) adjacent to and abutting said second plate (specifically on the periphery, as seen in figure 1); at least one inlet port (col. 2 lines 14-51) in said cover for introducing fluid that is to be passed through said plates; at least one outlet (col. 2 lines 14-51) port in said cover for discharging fluid that has passed through said plates; an actuator mounted on the drive shaft for exerting a force on a swash plate (col. 3 lines 44-53).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawai in view of Ota 6,434,956. Kawai teaches all of the above cited limitations, but fails to teach the following claim limitations taught by Ota: an inlet port (28) in said housing (1) for introducing fluid to be passed through said plates; a central processing unit (60); and a solenoid (CV3) for closing said at least one outlet port in response to an actuation signal from said central processing unit (col. 21 lines 16-29); wherein the actuation signal is an on-demand signal from a driver (col. 21 lines 16-29); wherein the actuation signal is generated in response to said central processing unit receiving a load signal indicative of an engine load exceeding a predetermined value (col. 9 lines 5-17); wherein the actuation signal is generated in response to said central processing unit receiving a pressure signal indicative of an air pressure exceeding a predetermined value (col. 18 lines 48-55).

5. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the compressor as taught by Kawai to incorporate the inlet port in the housing taught by Ota as a means of more easily adjusting the flowrate of gas from the discharge chamber to the crank chamber (col. 6 lines 46-48). It would also have

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been obvious to one of ordinary skill in the art at the time of the invention to modify the compressor as taught by Kawai to incorporate the central processing unit and solenoid system taught by Ota as a means of rapidly changing the displacement of the compressor thereby stabilizing the temperature of a vehicle passenger compartment and be quickly changed to secure engine power (col. 2 lines 20-27).

***Response to Arguments***

6. Applicant's arguments filed 1/2/07 were considered, but are moot in view of new grounds of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan P. Gillan whose telephone number is 571-272-8381. The examiner can normally be reached on 8:30 am - 5:00 pm; Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571-272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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EHUD GARTENBERG  
SUPERVISORY PATENT EXAMINER